

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KIM BLANDINO,

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, et al.,

Defendants.

Case No. 2:22-cv-0562-GMN-EJY

ORDER

I. BACKGROUND

Pending before the Court is *pro se* Plaintiff Kim Blandino's Motion for Extension of Time to Serve Defendants the Summons and Complaint Pursuant to LR IA 6-1. ECF No. 5. Plaintiff filed his lawsuit against Defendants Las Vegas Metropolitan Police Department ("LVMPD"), Sheriff Joe Lombardo, and ten unidentified "Doe" employees of the LVMPD on April 4, 2022. ECF No. 1. Plaintiff brings this action alleging violations arising from his May 21, 2019 arrest and subsequent detention. *Id.* at 9, 11-14. Having missed the July 7, 2022 deadline by which to serve Defendants, Plaintiff filed the instant Motion on July 22, 2022. ECF No. 5. Plaintiff's Motion says he was unable to complete service because Plaintiff has been "extremely busy" appealing his state court conviction in *State of Nevada v. Kim Blandino*, Case No. C-19-341767-1, and is also occupied by a civil lawsuit (*Blandino v. Federico*, Case No. 2:21-cv-01262-JAD-EJY). *Id.* at 2. In his Motion, Plaintiff asks the Court to extend the service deadline for an "indefinite" amount of time so that he may serve Defendants. *Id.* at 3.

II. LEGAL STANDARD

Rule 4(m) of the Federal Rules of Civil Procedure provides 90 days in which to complete service of the summons and complaint upon a defendant. Fed. R. Civ. P. 4(m); *see also In re Sheehan*, 253 F.3d 507, 512 (9th Cir. 2001). Nevertheless, a district court has broad discretion to fashion an appropriate service deadline under Rule 4(m) of the Federal Rules of Civil Procedure.

1 Fed. R. Civ. P. 4(m); *Reberger v. Dzurenda*, Case No. 3:17-cv-00552-RCJ-WGC, 2021 WL
 2 6494783, at *2 (D. Nev. Dec. 1, 2021); *Efaw v. Williams*, 473 F.3d 1038, 1041 (9th Cir. 2007). This
 3 includes the power to grant an extension after the original service deadline has expired. *Efaw*, 473
 4 F.3d at 1041. Upon a showing of good cause, a court must grant an extension of the service period
 5 under the Rules. *Id.* Absent good cause, a court may still grant such an extension if the plaintiff can
 6 demonstrate failure to serve due to excusable neglect. *Id.* Factors to be considered include but are
 7 not limited to whether there is “a statute of limitations bar, prejudice to the defendant, actual notice
 8 of a lawsuit, and eventual service.” *Id.*

9 **III. DISCUSSION**

10 The Court finds Plaintiff’s representation that he was unable to serve Defendants due to being
 11 otherwise occupied litigating his criminal and civil cases insufficient to establish good cause. By
 12 Plaintiff’s own admission, being on probation places him “in a much better position to move forward
 13 with this matter than if [Plaintiff] was in prison”; yet, Plaintiff requests an indefinite extension of
 14 the service deadline without demonstrating any effort to effect service in almost four months. ECF
 15 No. 5 at 3; *see Stone v. Abumeri*, Case No. 1:19-cv-00703-DAD-HBK (PC), 2022 WL 2718818, at
 16 *6 (E.D. Cal. July 13, 2022) (dismissing without prejudice where Plaintiff “took no action” to serve
 17 Defendant without explanation). *Pro se* litigants, like all parties, are bound by the Federal Rules of
 18 Civil Procedure. *Lapina v. Am. Addiction Centers, Inc.*, Case No. 2:17-cv-01943-JAD-CWH, 2018
 19 WL 6991160, at *1 (D. Nev. Oct. 29, 2018).

20 However, absent any indication that Defendants will be prejudiced by granting a brief
 21 extension, and considering Plaintiff’s representation that he has the ability and intention to litigate
 22 this matter while on probation, the Court exercises its discretion to grant Plaintiff a **one time** 30 day
 23 extension to serve Defendants. If Plaintiff does not achieve service by August 22, 2022, the Court
 24 will recommend dismissal of the action without prejudice.

25 **IV. ORDER**

26 IT IS HEREBY ORDERED that Plaintiff’s Motion for Extension of Time to Serve
 27 Defendants the Summons and Complaint Pursuant to LR IA 6-1 is GRANTED in part and DENIED
 28 in part.

1 IT IS FURTHER ORDERED that Plaintiff **must** serve Defendants on or before August 22,
2 2022. No further extensions will be granted.

3 IT IS FURTHER ORDERED that failure to serve Defendants within the 30 day period
4 provided by the Court will result in a recommendation to dismiss this action without prejudice.

5 Dated this 26th day of July, 2022.

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8 ELAYNA J. YOUCHAH
UNITED STATES MAGISTRATE JUDGE
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